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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER	
TO, BAOQUOC N	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ELIZABETH SHARPE and JOHN LESLIE FRASER

Appeal 2008-0291
Application 09/670,635
Technology Center 2100

Decided: April 21, 2008

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and CAROLYN D. THOMAS, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-27 and 58-67. Claims 28-57 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b). An Oral Hearing was held on April 8, 2008.

We REVERSE.

BACKGROUND

Appellants' invention relates to a method and system for archiving and retrieving items based on episodic memory of groups of people (Spec. 1). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> 1. A method of archiving and retrieving digital media items, comprising
>
> receiving a user input identifying a group of users to which an archiving user belongs;
>
> receiving archiving input data identifying: a digital media item to be archived for the group, the user's selection of zero or more group event types from a predetermined plurality of group event types specific to the group, the user's selection of zero or more persons in the group, and the user's selection of a time period;
>
> generating index information using the received user archiving input;
>
> storing the index information in association with the identified digital media item;
>
> repeating the reception of archiving input data, the generation of the index information and the storing of the index information for a plurality of digital media items;
>
> receiving retrieval input data representing a selection of a default or zero or more group event types from the predetermined plurality of group event types for the group, a selection of a default or

zero or more persons in the group, and a selection of a time period; and

using the selections and the identified group to retrieve and output digital media items that match the selection.

PRIOR ART

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Astle	US 5,485,611	Jan. 16, 1996
Mizoguchi	EP 0 678 816 A2	Oct. 25, 1995

Ben Shneiderman and Hyunmo Kang (hereinafter "Shneiderman"), "Direct Annotation: A Drag-and-Drop Strategy for Labeling Photos," Proc. International Conference Information Visualization (IV2000), London, England

REJECTIONS

Claims 1-27 and 66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shneiderman and Mizoguchi. Claim 67 stands separately rejected under 35 U.S.C. § 103(a) as being unpatentable over Shneiderman and Mizoguchi. Claims 58-65 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shneiderman and Astle.

Rather than reiterate the conflicting viewpoints advanced by the Examiner and Appellants regarding the above-noted rejections, we make reference to the Examiner's Answer (mailed April 10, 2007) for the

reasoning in support of the rejections, and to Appellants' Brief (filed September 25, 2006) and Reply Brief (filed October 10, 2006) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to Appellants' Specification and claims, to the applied prior art references, and to the respective positions articulated by Appellants and the Examiner. As a consequence of our review, we make the determinations that follow.

35 U.S.C. § 103

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). "[T]he Examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Furthermore,

> '[T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1741 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Appellants' main contention is that the Examiner's reliance upon the teachings of Shneiderman, Mizoguchi, and Astle does not disclose any system for leveraging the episodic memory of a social group of people or to permit operators to browse along sets of items (which correspond to the group to which they belong). (App. Br. 19). We agree with Appellants' argument. We find that the three applied references would not have taught or fairly suggested the additional granulation of stored data into sets associated with specified groups to which the user is associated with. We further find that the three applied references do not teach or fairly suggest the user interaction with the database using those groups as the basis for authentication and the means for presentation of a limited number of selections based on that identified grouping.

While Shneiderman teaches the use of a relational database for tracking, storing, and retrieving data, we find that Shneiderman does not teach or fairly suggest the additional layer of groupings.

While the Examiner has found similar words and similar processing, the Examiner has not appreciated nor applied prior art teachings to the instant claims with respect to the additional layer of groupings used in archiving, searching, and retrieving of the data based upon a group with which each user is associated with. Therefore, we find that the Examiner has not set forth a sufficient initial showing for a prima facie case of obviousness. Nor do we find the Examiner's responsive arguments to

address the merits of the claimed invention with respect to the usage of groups as an intermediate layer for archiving, searching, and retrieving data. Since we do not find that the Examiner has set forth a sufficient initial showing of obviousness, we cannot sustain the rejection of independent claims 1, 14, 15, 16, 17, 58, 62, 66, and 67 which all set forth similar limitations directed to the use of the groups and their respective dependent claims.

CONCLUSION

In summary, we have reversed the rejection of claims 1-27 and 58-67 under 35 U.S.C. § 103 (a).

REVERSED

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005